PREPARED BY: John Wiemer
DATE PREPARED: April 15, 2024
PHONE: 402-471-0051

LB 1023

Revision: 02

Revised per Select File Amendments

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$242,573	($10,470,000)		($31,539,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$242,573	($10,470,000)		($31,539,000)

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 1023 was amended by AM2150 and AM3034 on General File. AM2150 reflects the language contained in AM3034. AM3034 was amended by AM3220 AM3375 and AM3400 on Select File. The details of LB 1023, as amended, are discussed below.

Incorporates Provisions of LB 1400 with Modifications
The bill would establish the Relocation Incentive Act.

Under AM3220, for taxable years beginning on or after January 1, 2025, an employer that pays relocation expenses for a qualifying employee would be eligible to receive a refundable credit that may be used to offset income taxes, premium and related retaliatory taxes, or franchise taxes. The credit would be in an amount equal to 50% of the relocation expenses that were paid by the employer for a qualifying employee during the taxable year, not to exceed a maximum credit of $5,000 per qualifying employee. No credit would be granted unless the qualifying employee will receive an annual salary of at least $70,000 per year and not more than $250,000 per year. Credits claimed by the employer would be recaptured by the Department of Revenue (DOR) if the qualifying employee moves out of the state within two years after the credit is claimed. For taxable years beginning on or after January 1, 2026, the DOR would need to adjust the $70,000-$250,000 salary range by the same percentage used to adjust individual income tax brackets under section 77-2715.03(3). The DOR could approve tax credits under the Act each year until the total amount of credits approved for the year reaches $5 million.

Also, under the bill, for taxable years beginning on or after January 1, 2025, a qualifying employee would be eligible to make a one-time election within two calendar years of becoming a Nebraska resident to exclude all Nebraska-sourced wage income earned and received from an employer, to the extent included in federal adjusted gross income if the annual Nebraska-sourced wage income of the position accepted by the qualifying employee is at least $70,000 per year but not more than $250,000 per year and the qualifying employee was not a resident of the state in the year prior to the year in which residency is being claimed for purposes of qualifying for such exclusion. For any qualifying employee who would fail to maintain residency for two full calendar years following the calendar year in which the exclusion was taken, any reduction in tax as a result of such exclusion would be fully recaptured from the qualifying employee by the DOR. For taxable years beginning on or after January 1, 2026, the DOR would need to adjust the $70,000-$250,000 salary range by the same percentage used to adjust individual income tax brackets under section 77-2715.03(3).

Incorporates Provisions of LB 1023 with Modifications
This bill would provide for a reduction to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income for the following:

- The cost of expenditures for business assets that are qualified property or qualified improvement property covered under section 168 of the Internal Revenue Code would be eligible for full expensing and could be deducted as an expense incurred by the taxpayer during the taxable year during which the property is placed in service, notwithstanding any changes to federal law related to depreciations of property beginning January 1, 2023, or on any other date. Such deduction would be allowed only to the extent that such cost has not already been deducted in determining federal adjusted gross income or, for corporations and fiduciaries, federal taxable income. If the taxpayer does not fully expense the costs in the taxable year in which the property is placed in service, the taxpayer could elect to depreciate the costs over a five-year irrevocable term.
- Taxpayers could elect to treat research or experimental expenditures which are paid or incurred by the taxpayer during the taxable year in connection with the taxpayer's trade or business as expenses which are not chargeable to the capital account. The expenditures so treated would be allowed as a deduction, notwithstanding any changes to the Internal Revenue Code related to the amortization of such research or experimental expenditures. Such deduction would be allowed only to the extent that such research or experimental expenditures have not already been deducted in determining federal adjusted gross income or, for corporations and fiduciaries, federal taxable income.

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If the taxpayer does not fully deduct the research or experimental expenditures in the taxable yar in which the expenditures are paid or incurred, the taxpayer could elect to amortize the expenditures over a five-year irrevocable term.

Under AM3375, this reduction would begin on or after taxable year 2026. AM3375 also changes full expensing to mean a method for taxpayers to recover their costs for certain expenditures in depreciable business assets by immediately deducting 60% of the full cost of such expenditures in the tax year in which the property is placed in service.

Incorporates Provisions of LB 416 with Modifications
The bill seeks to make changes to the income of nonresident individuals. The bill replaces current language so that nonresident individuals' income includes when the individual's service is performed without this state for his or her convenience, but the service is directly related to a business, trade, or profession carried on within this state and, except for the individual's convenience, the service could have been performed within this state, provided that such individual must be present, in connection with such business, trade, or profession, within this state for more than seven days during the taxable year in which the compensation is earned. These changes would become operative starting for taxable year 2025. AM3400 would add that only compensation paid to the individual for services performed within this state would constitute income derived from sources within this state.

Incorporates Provisions of LB 173 with Modifications
The bill seeks to make changes to the income of nonresident individuals. Compensation paid to a nonresident individual would not include income derived from sources within this state if all of the following conditions apply:

- The compensation is paid for employment duties performed by the individual while present in this state to attend a conference or training;
- The individual is present in the state for seven or fewer employment duty days in the taxable year;
- The individual performed employment duties in more than one state during the taxable year; and
- Total compensation while in the state does not exceed $5,000 in the taxable year.

The bill would also add that nonresident income is not to include compensation that is paid to an individual who serves on the board of directors or similar governing body of a business and that relates to board or governing body activities taking place in this state.

These changes would become operative for taxable years 2025 and after.

Incorporates Provisions of LB 1113 with Modifications
The bill would make changes to the ImagiNE Nebraska Act by adding to the property tax exemption of business equipment that is located at a qualified location or locations and that is involved directly in the manufacture or processing of agricultural products listed under section 77-6831(8)(c)(ii) to include business equipment used primarily for the capture and compression of carbon dioxide.

These provisions are unchanged by the amendments on Select File.

In its previous fiscal note response, the Department of Economic Development estimated minimal fiscal impact to it as a result of this part of the bill. There is no basis to disagree with this estimate.

The Nebraska Association of County Officials estimated in its previous fiscal note response that this part of the bill could result in a shifting of levy increases to other property taxes, a decrease in taxes collected, an inability to fulfill State and Federal unfunded mandates imposed upon counties, a decrease in the ability of the counties to fund programs and services, and/or a combination of the listed scenarios due to these property tax exemptions connected to carbon dioxide.

A change in the taxable base for schools due to an exemption could have an impact on state aid under TEEOSA. However, the exact amount cannot be determined.

Incorporates Provisions of LB 1049
This aspect of the amendment would reduce the maximum occupation tax on the sale of telecommunications services from 6.25% to 4% beginning October 1, 2024.

These provisions are unchanged by the amendments on Select File.

There is no fiscal impact to the state from this aspect of the amendment.

The City of Lincoln in its previous fiscal note response estimated revenue losses of ($875,000) in FY25 and ($1,025,000) in FY26.

In the original fiscal note for LB 1049, the City of Omaha estimated revenue losses of ($521,785) for 2024 and ($2,044,545) for 2025.

Any other political subdivision that receives occupation tax dollars on the sale of telecommunications services would face revenue losses. The degree to which revenue losses are experienced would be dependent on the dollars of sales in such jurisdiction.

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The DOR estimates the following impact to General Fund revenues as a result of this bill:

	FY 24-25	*FY 25-26*	*FY 26-27*
Relocation Incentive Act	$ (8,020,000)	$ (23,320,000)	$ (21,221,000)
Expensing	$ -	$ (2,721,000)	$ (12,406,000)
Nonresidents (LB 173)	Indeterminate Reduction to GF Revenues	Indeterminate Reduction to GF Revenues	Indeterminate Reduction to GF Revenues
Nonresidents (LB 416) with AM3400	$ (2,450,000)	$ (5,498,000)	$ (5,052,000)
Property Tax Exemption	$ -	$ -	$ -
Total	**$ (10,470,000)**	**$ (31,539,000)**	**$ (38,679,000)**

The DOR also estimates a need for a one-time programming charge to be paid to the Office of the Chief Information Officer (OCIO) of $242,573.

There is no basis to disagree with these estimates by the DOR.

LB 1023 AM3034 AM3220 AM3375 AM3400 Fiscal Note 2024

State Agency Estimate

State Agency Name: Department of Revenue					Date Due LFO:	
Approved by: James R. Kamm		Date Prepared:	LEAVE BLANK		Phone: 471-5896	
	FY 2024-2025		**FY 2025-2026**		**FY 2026-2027**	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	$242,573	$(10,470,000)		$(31,539,000)		$(38,679,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	$242,573	$(10,470,000)		$(31,539,000)		$(38,679,000)

LB 1023 amended by AM 3034, AM 3220, AM 3375, and AM 3400 contains the following:

Relocation Incentive Act (LB 1400)

Section 1 to 6 of AM 3034 creates the Relocation Incentive Act (RI Act). For taxable year beginning or deemed to begin on or after January 1, 2025, a qualifying employee who moves to the State of Nebraska for purposes of accepting a position of employment will be eligible to exclude Nebraska-source wage income from taxation. AM 3220 amends Section 3 of AM 3034 to provide that employers hiring a qualified employee will be eligible for a tax credit to reimburse part of the costs of relocation packages provided to the qualified employee. Employers may use the credit to offset any income taxes imposed under the Nebraska Revenue Act; any premium and related retaliatory taxes due under Neb. Rev. Stat. §§ 44-150, 77-908, or 81-523; or any franchise taxes due under §§ 77-3801 to 77-3807. A qualified employee is a taxpayer who relocates to Nebraska and is paid an annual salary between $70,000 to $250,000.

The RI Act provides the following:

1) Qualified employee may exempt Nebraska-sourced wage income from taxation for the first partial year resident tax return or second full year resident tax return. The taxpayer may make a one-time election for the exemption to apply on the first-year resident tax return or the second-year resident tax return. The employee must not have been a resident of Nebraska in the year prior to the relocation.
2) Provide up to 50% of the relocation cost to employers for relocation packages up to $10,000 (reimbursement amount max at $5,000 per employee) to qualified employees' relocation from out of state. Employers must apply for the credit with the Department of Revenue (DOR) in advance and claim the approved amount on the Nebraska income tax return as a refundable income tax credit. The maximum amount of credit can be approved is $5 million per calendar year.
3) To qualify for income tax exemption and the employer income tax credit, the new employee must relocate to Nebraska and be paid an annual salary between $70,000 to $250,000.
4) Threshold salary will be indexed for inflation. For taxable years beginning or deemed to begin on or after January 1, 2026, the Tax Commissioner must adjust the threshold on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the 12months ending on August 31, 2024, to the 12months ending on August 31 of the year preceding the taxable year.

Major Objects of Expenditure

Class Code	Classification Title	24-25 FTE	25-26 FTE	26-27 FTE	24-25 Expenditures	25-26 Expenditures	26-27 Expenditures
Benefits							
Operating Costs					$242,573		
Travel							
Capital Outlay							
Capital Improvements							
Total					$242,573		

5) The qualified employee must remain a resident for two full calendar years following the year in which the credit is earned, or the exemption is claimed. The employee income tax exemption and employer income tax credit are subject to recapture if the employee does not remain a Nebraska resident for the two calendar years following the calendar year the exclusion was taken or credit was claimed.
6) The qualified employee exemption can only be earned and elected once by any taxpayer.
7) AM 3220 provides that any employer using the credit against retaliatory taxes due are not required to pay additional retaliatory tax for claiming the tax credit, the credit may fully offset the retaliatory tax imposed, and it is considered a payment of tax for purposes of § 77-2734.03.

Expensing (LB 1023)

AM 3375 amends Section 9 of AM 3034 to provide that the two deductions in Section 10 apply for taxable years beginning on or after January 1, 2026. Section 10 provides that taxpayers may reduce federal adjusted gross income (AGI) or, for corporations and fiduciaries, federal taxable income by the following amounts that are allowed to be deducted:

- Cost of expenditures for business assets that are qualified property or qualified improvement property covered under IRC § 168 will be eligible for full expensing and may be deducted as an expense incurred by the taxpayer during the tax year in which the property is placed in service notwithstanding any changes to federal law related to the depreciation of property beginning January 1, 2023 or on any other date. This allows for accelerated expensing as opposed to expensing over the class life of the asset. This is allowed to the extent that the cost has not already been deducted when determining federal AGI or federal taxable income. If not fully expensed in the tax year in which the property is placed in service, the taxpayer may elect to depreciate the costs over a five-year irrevocable term.

- Taxpayers may elect to treat research or experimental expenditures which are paid or incurred by the taxpayer during the tax year in connection with the taxpayer's trade or business as expenses which are not chargeable to the capital account. Expenditures so treated will be allowed as a deduction, notwithstanding changes to the Internal Revenue Code to the amortization of such expenditures. This allows for accelerated expensing as opposed to expensing over the class life of the asset. This deduction is only allowed to the extent the research or experimental expenditures have not already been deducted in determining federal AGI or federal taxable income. If not fully deducted in the tax year in which the research or experimental expenditures are paid or incurred, the taxpayer may elect to amortize the expenditures over a five-year irrevocable term.

If either deduction is taken by an S corporation, partnership, limited liability company, estate, or trust, the deduction may be claimed by the shareholders, partners, members, or beneficiaries in the same manner as those shareholders, partners, members, or beneficiaries account for their proportionate shares of the income or losses of the S corporation, partnership, limited liability company, estate, or trust.

LB 1023 provides the following definitions. AM 3375 to AM 3034 amends the definition of full expensing to mean a method for taxpayers to recover their costs for certain expenditures in depreciable business assets by immediately deducting 60% of the full cost of such expenditures in the tax year in which the property is placed in service. Internal Revenue Code means the Internal Revenue Code of 1986, as amended. Qualified improvement property has the same meaning as in IRC § 168(e)(6) and will apply to property placed in service after December 31, 2024. Qualified property has the same meaning as in IRC § 168(k) and will apply to property placed in service after December 31, 2024. Research or experimental expenditures has the same meaning as in 26 C.F.R. 1.174-2

DOR may adopt and promulgate rules and regulations.

Nonresident

Section 12 of AM 3034 adds parts of LB 173 where it excludes from Nebraska income tax compensation paid to nonresidents who come to Nebraska to attend conferences or training, who are present in Nebraska for 7 or less employment duty days, who perform employment duties in more than one state, and whose total compensation while in the state does not exceed $5,000 for the taxable year. The amendment excludes tax on nonresidents for attendance at Board or Director meetings. Section 12 also provides that the DOR must not require payment of penalties or interest that would otherwise apply for failing to deduct and withhold income taxes if the employer maintains a time and management system or maintains records as provided in LB 173.

Section 12 of AM 3034 provides that: compensation paid by a business, trade, or profession constitutes Nebraska source income of a nonresident if the individual's service is performed outside Nebraska for his or her convenience, but the service is directly related to a business, trade, or profession carried on in Nebraska and, except for the individual's convenience, the service could have been performed in Nebraska, provided that such an individual must be present, in connection with such business, trade, or profession, within Nebraska for more than 7 days during the taxable year in which the compensation is earned. AM 3400 to AM 3034 adds that only compensation paid to the individual for services performed within this state will constitute income derived from sources within this state under this subdivision.

Section 12 is operative for all taxable years beginning on or after January 1, 2025.

ImagiNE – Property Tax Exemption

Section 14 of AM 3034 adds a property tax exemption to ImagiNE in Neb. Rev. Stat. § 77-6831(8)(c)(ii) for business equipment at a qualified location used primarily for the capture and compression of carbon dioxide.

Occupation Tax

Section 15 of AM 3034 changes the occupation tax on the receipts from the sale of telecommunications service that a municipality can impose. Pursuant to Neb. Rev. Stat. § 86-704, before October 1, 2024, the occupation tax from the sale of telecommunications services as defined in Neb. Rev. Stat. §77-2703.04(7) (aa) shall not exceed six and twenty-five hundredths percent. Beginning October 1, 2024, this occupation tax must not exceed 4%. An exception continues to be provided that a municipality may increase this occupation tax if the question is presented in a primary, general, or special election and passes.

Fiscal Impact

The estimated fiscal impact to the General Fund revenues for LB 1023 AM 3034 would be as follows:

	FY24-25	FY25-26	FY26-27
Relocation Incentive Act	$ (8,020,000)	$ (23,320,000)	$ (21,221,000)
Expensing	$ -	$ (2,721,000)	$ (12,406,000)
Nonresidents - Conferences / Training / Board of Director Meetings	Indeterminable Reduction to GF revenues	Indeterminable Reduction to GF revenues	Indeterminable Reduction to GF revenues
Nonresidents - Convivence rule - AM 3400	$ (2,450,000)	$ (5,498,000)	$ (5,052,000)
Property Tax Exemption	$ -	$ -	$ -
Total	$ (10,470,000)	$ (31,539,000)	$ (38,679,000)

LB 1023 AM 3034 will require a one-time programing charge of $242,573 paid to the OCIO for adding 2 lines to 1040N, 2 lines to 1120N, 2 lines to 1041N, 2 lines to 1065N, 2 lines to NebFile for Individuals, 2 lines to Business MeF, and 1 unique mainframe tracking systems.